

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES JIMINEZ,

Plaintiff,

No. CIV S-04-1532 LKK JFM P

vs.

E. TOWNSELL, et al.,

Defendants.

ORDER TO SHOW CAUSE

Plaintiff is a former county jail inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This matter came on for hearing on April 14, 2005 on defendants' motions to compel production of documents, supplemental responses to interrogatories, and plaintiff's deposition. Kathleen Williams appeared as counsel for defendants. There was no appearance at the hearing by or on behalf of plaintiff, nor has plaintiff filed an opposition or other response to any of defendants' motions.

It appears that plaintiff may have abandoned this action. The court possesses the discretionary authority to dismiss an action based on plaintiff's failure to diligently prosecute. See Fed. R. Civ. P. 41(b). Good cause appearing, this matter will be placed on calendar for consideration of dismissal for lack of prosecution. If plaintiff has any reasons why this action should not be dismissed, he shall submit them by sworn declaration of facts no later than twenty-

1 one days prior to the hearing. This declaration, to which plaintiff may append a supporting
2 memorandum of law, shall include an explanation of the lack of activity in this case and shall list
3 each specific step plaintiff plans to take to prepare this case for trial. Plaintiff is cautioned that
4 failure to timely file the required declaration will result in a recommendation that this action be
5 dismissed. Defendants may submit a declaration or memorandum stating their position but are
6 not required to do so. Defendants' documents, if any, are to be filed no later than fourteen days
7 prior to the hearing.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. This matter is set for hearing for consideration of dismissal for lack of
10 prosecution on June 2, 2005, at 11:00 a.m., in Courtroom # 26, before the undersigned.

11 2. Plaintiff's sworn declaration of facts shall be filed no later than twenty-one
12 days prior to the hearing; Defendants' documents, if any, shall be filed no later than fourteen days
13 prior to the hearing; Plaintiff is cautioned that failure to timely file the required declaration will
14 result in a recommendation that this action be dismissed.

15 DATED: April 21, 2005.

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18 UNITED STATES MAGISTRATE JUDGE

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